

STATE OF TEXAS §
COUNTIES OF ARANSAS §
SAN PATRICIO AND NUECES §
CITY OF ARANSAS PASS §

On this the 4th day of November, 2013 the City Council of the City of Aransas Pass convened in a Regular Meeting being open to the Public at the regular meeting place thereof in the City Hall and notice of said meeting giving the time, place, date and subject hereof having been posted and prescribed by Chapter 551 of the Texas Government Code with the following attendance to wit constituting a quorum.

PRESENT:	Adan Chapa	Mayor
	Phillip Hyatt	Mayor Pro Tempore
	Ramiro Gomez	Council Member
	Billy Ellis	Council Member
	Vickie Abrego	Council Member

ABSENT:

ADMINISTRATIVE		
PERSONNEL PRESENT:	Allen Lawrence	City Attorney
	Sylvia Carrillo	City Manager

ADMINISTRATIVE		
PERSONNEL ABSENT:	Yvonne Stonebraker	City Secretary

STAFF PRESENT:	Bill Haines	EMC/Admin. Coordinator
	Amanda Torres	Administrative Assistant
	Jon Pierre Gonzales	Head Meter Reader
	Eric Blanchard	Chief of Police
	Michael Holmes	Building Official
	Jeff Martin	IT Director
	Paul Alvarado	Public Works Director
	Donna Cox	Finance Director
	Rick Kilgore	Fire Chief
	Sarah Lee	Civic Center Director
	Ron Howe	Interim Municipal Court Judge
	Earl Buckmaster	Harbormaster

OTHERS PRESENT:	Polly Mirkovich, Ralph and Karen Gayle, Ernie and Olivia Torres, Mike Reeves, Annita West, Barbara Oxford, Carol Salinas, Donald and Jeanie Brummett, Hope Comingore, Jimmy and Esther Rodriguez, Dwight D. Ross, Ed and Ellie Block, Richard D. Ross, Manuel Becerra, Bernardo Flores Jr., Steve Warren, Mike and Jan Moore, Jim and Alpha Covington, Estela Torres, David Underbrink, Polly Mirkovich
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There may have been others present who did not sign in.

1. **CALL MEETING TO ORDER.**

Mayor Chapa called the meeting to order at 7:00 P.M. on November 4, 2013.

2. **INVOCATION AND PLEDGE OF ALLEGIANCE TO THE UNITED STATES FLAG.**

Council member Vickie Abrego gave the invocation and led the Pledge of Allegiance to the United States Flag.

3. **CONSENT AGENDA.**

A. CONSIDER AND ACT ON MINUTES OF SEPTEMBER 23, OCTOBER 7 (CORRECTED), AND OCTOBER 21, 2013.

Council Member Ellis made a motion to approve the consent agenda. Mayor Pro Tem Hyatt seconded the motion and the motion carried unanimously.

4. PRESENTATION ON FAIR HOUSING ACTIVITY STATEMENT BY GRANTWORKS, INC. AND ADOPTING RESOLUTIONS:

A. RESOLUTION NO. 2013-702 – A RESOLUTION ADOPTING THE FAIR HOUSING ACTIVITY STATEMENT-TEXAS (FHA) AS THE CITY OF ARANSAS PASS' FAIR HOUSING PLAN.

B. RESOLUTION NO. 2013-703 – A RESOLUTION ESTABLISHING LOCAL FAIR HOUSING POLICIES AND PRACTICES.

C. RESOLUTION NO. 2013-704—A RESOLUTION ESTABLISHING FAIR HOUSING COMPLAINT PROCEDURE.

City Manager Carrillo explained that was part of procedure required by federal funding regulations to ensure that the City meets fair housing requirements.

Mayor Pro Tem made a motion to adopt Resolution 2013-702, Resolution 2013-703 and Resolution 2013-704. Council member Ellis seconded the motion and the motion carried unanimously.

5. CONSIDER AND ACT ON APPOINTMENTS TO THE ARANSAS PASS MUNICIPAL DEVELOPMENT DISTRICT, PLANNING AND ZONING COMMISSION AND THE ARANSAS PASS HOUSING AUTHORITY.

City Manager Carrillo explained that the Planning and Zoning Commission was lacking one member and that there was one sole applicant left from the prior application process —Carol Salinas.

Council member Abrego made a motion to appoint Carol Salinas to the Planning and Zoning Commission. Mayor Pro Tem Hyatt seconded the motion and the motion carried unanimously.

City Manager Carrillo proceeded to explain board appointments to the Municipal Development District. Three positions were available for appointments. A fourth position was a council appointment that council member Vickie Abrego has filled. City Manager Carrillo explained that three of the applicants to the board applied for re-appointment: Hope Comingore, Karen Gayle and Terry Stansberry. Henrie Morales was the new applicant to the board.

Mayor Chapa clarified that since Mrs. Morales had recently been appointed to the Housing Authority Board, she would not be able to serve on a City board. He then stated that the new appointments to the Housing Authority Board were Mrs. Morales and Dianne Brown.

Council member Abrego made a motion to re-appoint Hope Comingore, Terry Stansberry and Karen Gayle to the Municipal Development District. Mayor Pro Tem Hyatt seconded the motion and the motion carried unanimously.

Mayor Chapa thanked those who took time to apply and participate on the City boards and commissions. City Manager Carrillo also commented that the City was still looking for applicants for the Building Standards Board.

6. CONSIDER AND ACT ON THE NUECES COUNTY APPRAISAL DISTRICT ELECTION RESOLUTION.

City Manager Carrillo explained that there were three candidates for Place 6 of the Nueces County Appraisal District Board of Directors: Kim Johnson, Liz Gutierrez and Gregory H. Smith. The City of Aransas Pass was allocated six votes in the election. Although on the ballot, Gregory H. Smith was no longer a candidate for Place 6 because he was already appointed to the board by Nueces County.

Council member Ellis made a motion to allocate three votes to Kim Johnson and three votes to Liz Gutierrez. Mayor Pro Tem Hyatt seconded the motion and the motion carried unanimously.

7. **CONSIDER AND ACT ON FORGIVING PENALTY AND/OR INTEREST ON \$4,293.00 (9 WEED LOT LIENS AND 1 DEMOLITION LIEN) AND SETTING UP A PAYMENT PLAN FOR JIMMY AND ESTHER RODRIGUEZ ON LOT 2, BLOCK 209—351 N. 12TH ST.**

City Manager Carrillo explained that Jimmy and Esther Rodriguez had bid on the property for purchase and had learned about liens placed on the property after purchase. The total amount owed with penalty and interest is \$9,290.27. Mr. and Mrs. Rodriguez have approached the City to forgive penalty and interest on the liens and set up a payment plan on the principal amount owed.

Mr. and Mrs. Rodriguez explained that 351 N. 12th was adjacent to their primary residence and that they had bought the property in hopes of cleaning it up. After purchase, they learned that there were liens on the property.

Council member Ellis asked if there was any way the City could collect for the full amount of the liens with interest. City Manager Carrillo responded that the City has been trying to collect on liens on the property since 2002. The City has millions of dollars in liens that need to be collected on and this would be an opportunity to put a property back on the City tax rolls.

Council member Abrego made a motion to forgive the penalty & interest owed on the liens placed on Lot 2, Block 209 and authorizing the City Manager to establish a payment plan for Mr. and Mrs. Rodriguez to pay back the principal amount owed on the lien. Council member Gomez seconded the motion and the motion carried unanimously.

8. **CONSIDER AND ACT ON NAISMITH'S ACCEPTANCE OF CONN BROWN HARBOR PARK IMPROVEMENTS.**

City Manager Carrillo stated that the City had received the Certificate of Contract Completion from Naismith Engineering and signed by the contractors. There is a final payment of \$105,000.00 remaining on the park improvements.

David Underbrink of Naismith Engineering stated that the Council had a copy of the Change Order requested in the month prior, as well as two payment requests. The final amount due, which would be 10% of the project or \$81,974.75, would be held for 30 days and released as retainage.

City Manager Carrillo asked Mr. Underbrink what the status was on making the fish cleaning table and other harbor improvements ADA accessible. Mr. Underbrink responded that a separate contractor or City staff would need to complete the work to make the water fountains and the concrete work by the bathrooms ADA accessible. City Manager Carrillo questioned why Naismith Engineering was ready to submit the completion without making ADA improvements. Mr. Underbrink responded that the contractor was unwilling to complete any additional improvements.

City Manager Carrillo explained to the City Council while the item was not required to come up to the ADA standard, it should because it is a publicly used restroom. In addition, there should be a landing at the water fountain to make it wheelchair accessible

and there were additional problems with ADA accessibility at the fish cleaning table. City Manager Carrillo asked if the City Council wanted to approve the contract completion although the items in contention were still outstanding and execute the same items in a separate contract.

Mr. Underbrink responded that the water fountains were mounted at the proper height but there was not a flat surface around the fountains for a wheelchair to sit on. However, if the City wanted to complete these improvements, they would have to either use City staff or find another contractor. The contractor who had been previously completing the work refused to agree to complete any additional work, even with payment. Mr. Underbrink recommended finding another contractor to complete the work with the remaining \$5,200 in grant money.

Harbor Master Earl Buckmaster asked about the ramps at the park. He stated that he had seen the company's survey crew inspecting the ramps and saw that there was some variance in the ramp levels. Mr. Underbrink responded that he had been at the site on two occasions and had not seen what Mr. Buckmaster had mentioned. He said that the company had taken elevations at every foot and that large variances were not found. Mayor Chapa asked if Mr. Underbrink had elevation shots available. Mr. Underbrink responded that he did and that those were submitted to the City on two different occasions.

Council member Gomez asked what the elevation drop per foot was supposed to be. Mr. Underbrink responded that the company wanted the drops at 13% and should be reasonably flat. However, the grating was not smoothed out before the blocks were placed. Mr. Underbrink stated that now it cannot be fixed because it cannot be rearranged without ruining the ramps. City Manager Carrillo said that the City would have a one year warranty on the work but it was critical to fix problems prior to accepting the Certificate of Completion. Mr. Underbrink replied that while the contractor went back to the site to make corrections twice, nothing was significantly changed. However, he said that the ramp was very stable and was not continuing to move around.

Mr. Underbrink said the acceptance of the Certificate of Completion would begin the one-year warranty work on the project. If the contractor was unwilling to do any warranty work, Mr. Underbrink stated that the City had the option to pull the contractor's bonds. City Manager Carrillo stated that the contract would have to be amended to change the acceptance date from October 15, 2013 to November 4, 2013 to reflect that night's council action.

Mayor Chapa asked whether the company did a background check on the contractors they hired to verify the quality of work they had completed in the past. Mr. Underbrink responded that he has had good contractors complete bad work and unfamiliar contractors complete fantastic work in the past.

City Manager Carrillo commented that \$80,000 of the \$105,000 would need to be held for 30 days before it is released. Mr. Underbrink said that there was one outstanding payment of \$23,832.45 and that ten percent of the project amount would be held as retainage for 30 days, \$81,974.75. He said that in this action, the Council would be authorizing the Change Order, authorizing the payment of \$23,832.45 and accepting the project thus beginning the warranty period.

Mayor Chapa asked how long it would take to make the requested changes to the restrooms. Mr. Underbrink responded that it should not take very long. He stated that City had the option to use its own crews to complete the work or hire another contractor. Both City Manager Carrillo and Mr. Underbrink stated that the company had provided the specs to complete the work.

Mayor Chapa asked for comments from the City Attorney and City Council. Council member Ellis stated that he did not feel comfortable voting in approval of the project while the ramps were still sub-standard. Council member Gomez added that that is why he asked for the slope of the ramp. Mr. Underbrink said it was sloped at 1 ½ inch per foot. Mayor Chapa asked what the overall length of the ramp was. Mr. Underbrink responded that it was 38 feet of block and concrete above the block.

Mayor Chapa asked where zero point began. Mr. Underbrink responded that the normal tide in the area started at one and a half feet and that the ending footage in the water was about three and a half feet deep. City Manager Carrillo commented that the major issue was that the ramp was built as it was designed. She said that legally the contractor had fulfilled their part of the work and that the engineer seemed to be willing to put his seal on the line to submit this as favorable work. She commented that the ramp was not aesthetically pleasing and that it was not in the condition the City expect a million dollar boat ramp would be in. However, the contractor had completed his portion of the work.

Mayor Chapa asked the Council to go to a vote to see what the result what be for the project acceptance. City Attorney Allen Lawrence reminded the Council that the contractor still deserved to be paid for the work completed. Mr. Underbrink commented that the contractor did not do A-quality work. He stated that there was an existing boat ramp at the location and because it was not removed satisfactorily, it caused problems. Mayor Chapa asked what the City could do to prevent this from happening again with the contractor. Mr. Underbrink replied that the only thing that could be done is not hire the contractor again but it was the City's responsibility to pay the contractor for work that was completed. He stated that he had thought the work could have been corrected while the contractor was working on that particular stage of the project.

City Manager Carrillo stated that she found it problematic that the engineering firm continued to approve payment vouchers although the work needed to be corrected instead of waiting to approve payment once corrections were made. Mr. Underbrink responded that payments were approved based on progress payments not as an acceptance of work.

Council member Ellis asked what kind of recourse the City had on the project. City Manager Carrillo responded that City staff and all of the contractors involved in the project had a meeting and agreed that they would not want to complete subpar work on their own home foundation. Therefore it should not be acceptable to complete subpar work on a project that the entire city has financially supported. Pulling the contractor's bond was discussed and the contractors agreed that it was an option that no one wanted to take.

Mr. Mike Moore of Redfish Bay Boat House commented that he had been involved with the project for almost three years. He stated that a company had been hired to look out for the City's best interest and that had not happened. Mr. Moore continued, saying that the contractor had done the job properly, doing what they were told to do. He said that if the City Council pulled the bonds, they would be pulling it on the wrong people. In addition, he said that the job went unchecked for three to five weeks. He asked the City Council not to pull the bonds on the contractor when the supervising company should be held accountable.

Mr. Underbrink responded that he was not asking the City Council to pull the contractor's bonds. He stated that there was not enough money in the project grant to do any more than what was completed. To complete what was wanted in the project, it would have cost an additional \$200,000 - \$300,000. He explained that the project took five years to complete including moving the boat ramps to another location and obtaining another Corps of Engineers permit. Mr. Underbrink cites the duration of the project as to why the project also became so expensive.

Mr. Moore said in response that the project was approved in two years but was postponed in order to seek more funds. Mr. Underbrink responded that the project was delayed because a bait stand was in the way of the proposed location of the ramps and changing the Corps of Engineers permit took a year. While waiting on the permit, the company sought for grant money to be added to the then-current funds.

Mr. Ernie Torres commented that he and his wife sit by the Seaman's Memorial Tower twice a week. He has noticed over the past five to six months that boats that go through the center ramp will jump out of alignment. He stated that something needed to be done to correct it. Mayor Chapa also commented that he has seen patrons back up their trailers only to have it also get out of alignment.

Council member Abrego made the motion to approve Naismith's acceptance of Conn Brown Harbor Park improvements. Mayor Pro Tem Hyatt seconded the motion and the motion passed with a 4-1 vote.

9. **PRESENTATION BY CORPUS CHRISTI DISPOSAL FOR SOLID WASTE PROVIDER SERVICES (3 MINUTES).**

Passed on. Representative was not present.

10. **PRESENTATION BY ALLIED WASTE FOR SOLID WASTE PROVIDER SERVICES (3 MINUTES).**

Bill Davis of Absolute Waste explained that his company has been servicing the area since 2001. Davis has been in the solid waste industry for over 25 years. He stated he spent his first twelve years with BFI, first as an accountant then as part of operations. His current work with municipalities includes the Corpus Christi Housing Authority.

He added that he enjoyed working with communities to find creative solutions to meet their needs. For example, the company modified their contract with the City of Goliad to include brush pickup as part of services offered to them. Mr. Davis explained that his company has serviced large cities such as Robstown in the past and has helped them with solid waste planning. He ended his presentation noting that the City's current pricing was above market and that his company would be able to save the City money.

11. **PRESENTATION BY REPUBLIC SERVICES FOR SOLID WASTE PROVIDER SERVICES (3 MINUTES).**

Mike Reeves of Republic Services mentioned to the City Council that he has done presentations to the Council in the past. He introduced the Council to their new route leader, Andy Becerra, who will make sure that customers are happy and drivers are consistent.

Mr. Reeves gave a brief explanation that municipalities did not have to go out for RFP on solid waste services because of public health reasons. Mr. Reeves stated that he had been discussing service benefits with City Manager Carrillo and asked the City Council to please consider those.

12. **CITY MANAGER UPDATES: TOWING COMPANIES, REPAIR WORK ON WATER TOWERS.**

City Manager Carrillo stated that City staff had been receiving complaints on local towing companies but did not want to set a rate for the companies to operate at. She stated that staff was looking at developing an ordinance that would remove the residency requirement for towing companies.

In addition, City Manager Carrillo explained that repair work on the Avenue A Ground Storage Tank would begin on Monday, November 11. She stated that this could be an

opportunity to use the tank surface to rebrand and remarket the City. Mayor Chapa asked if the Aransas Pass High School art class could do work on the tank. City Manager Carrillo responded that there was a very short window on which artwork could be completed on the tank.

City Manager Carrillo also noted that she had given the Council the proofs of billboard artwork that will be placed at the end of Conn Brown Harbor and that the APHS art class had painted a sign for the Harbor near the fish cleaning table. City Manager Carrillo also advised the Council to watch their email for results from other RFPs.

13. CITIZENS' COMMENTS.

Polly Mirkovich commented that Republic Services has responded to all complaints and had corrected everything.

14. RECESS OPEN MEETING AND RETIRE TO EXECUTIVE SESSION PURSUANT TO CHAPTER 551 OF TEXAS GOVERNMENT CODE:

Mayor Chapa recessed the Open Meeting and retired to Executive Session at 8:02 p.m. He stated that Item A would be passed on since the presenters were not in attendance.

- A) **SECTION 551.072 – DELIBERATIONS REGARDING REAL PROPERTY – CONN BROWN HARBOR – KENDALL GUILLIAM AND DAN MOORE**
- B) **SECTION 551.074 – DELIBERATIONS REGARDING PERSONNEL – MUNICIPAL COURT JUDGE AND ASSOCIATE JUDGE**

18. RECONVENE IN OPEN MEETING AND CONSIDER AND ACT ON FINDINGS OF EXECUTIVE SESSION.

Mayor Chapa reconvened the Open Meeting at 8:30 p.m.

- A) **SECTION 551.072 – DELIBERATIONS REGARDING REAL PROPERTY – CONN BROWN HARBOR – KENDALL GILLIAM AND DAN MOORE**

Passed on

- B) **SECTION 551.074 – DELIBERATIONS REGARDING PERSONNEL – MUNICIPAL COURT JUDGE AND ASSOCIATE JUDGE**

Mayor Pro Tem Hyatt made a motion to select Ron Howe as Municipal Court Judge and Bernardo Flores, Jr. as Associate Judge. Council member Ellis seconded the motion and the motion carried unanimously.

19. ADJOURNMENT OF MEETING.

Council Member Ellis made a motion to adjourn the meeting. Council Member Gomez seconded the motion and the motion carried unanimously.

Mayor Chapa adjourned the meeting at 8:31 P.M.

Adan Chapa, Mayor

Attest:

Yvonne Stonebraker, City Secretary